IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 926 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION
Versus
MASHODABEN KALIDAS WD/O KALIDAS MATHURBHAI AND OTHERS

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Appearance :
MR HARDIK C RAWAL for Appellant,MS ROOPAL R PATEL for Appellant.
MS LOPA M BHATT for MR AD DESAI for Respondent Nos.1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5,1.2.6.
- for Respondent Nos.2 - 5.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 23/11/2007

ORAL JUDGMENT

1. The appellant, Gujarat State Road Transport Corporation, has called into question common judgment and award dated 29-6-1989,

inter alia, in MACP No.1014 of 1986 of the Motor Accident Claims Tribunal (Main) Vadodara, whereunder the original claimant was awarded by way of compensation a sum of Rs.1,70,320/- as against his claim of Rs.4 Lacs.

2. The appeal was pressed only on the grounds that the tribunal had erred in holding that the accident was the result of rash and negligent action on the part of drivers of both the vehicles which had collided and that excessive amount was awarded by way of compensation. Learned counsel, Ms. Rupal Patel, appearing for the appellants relied upon panchnama of scene of the accident (Exh.44), to submit that position of vehicles after the accident clearly indicated that negligence was attributable to the driver of the truck which had collided with the bus in which passengers including the claimants were travelling; and the FIR lodged by eye witness at Exh.43 clearly stated that the truck had come at the spot of accident at an excessive speed and dashed with the bus. Learned counsel also submitted that the tribunal had erred in awarding Rs.15,000/- for pain, shock and suffering resulting from fracture of the ribs and again Rs.40,000/- on the same count for the crush injuries and consequent amputation of the left forearm from the wrist.

3. It was seen from the record that the accident had occurred on 20th May 1986 at about 7:30 a.m. while State Transport Bus No. GRR 8920 running between Dena and Vadodara had reached near intersection situated at the outskirts of village Dena and Truck No. GRR 4726 had come from the direction of Ahmedabad and collided with the bus. Both the vehicles were damaged and the bus had turned turtle at a distance of about 176 feet from the spot of collusion; whereas the truck was found to be lying at a distance of about 28 feet from the spot. Having regard to the damage caused to both the vehicles and their position near the spot

of accident, the tribunal appears to have come to a reasonable conclusion that both the vehicles were driven rashly and negligently at an excessive speed. Significantly, even as the driver of the bus was also injured, he had preferred not to enter into the witness box and, hence, adverse inference was required to be drawn. The finding of fact as regards negligence of the driver of the bus appears to be reasonable and not shown to be in any way perverse or illegal. As far as the amount of compensation is concerned, the original claimant was a Travelling Ticket Inspector and after the accident, he had not only suffered loss of limb but faced decategorization and loss of income as also part of the retiral benefits. The total actual and immediate loss due to decategorization was found to be Rs.6,360/- per year which, multiplied by remaining years of service came to Rs.76,320/-. Yearly loss on account of reduction in pension was assessed at Rs.2,400/- which multiplied by ten came to Rs.24,000/-. As for the bodily injuries, the claimants had suffered fractures on the third, fourth, fifth and sixth ribs, while crush injuries on the hand had resulted into amputation and permanent disability. Under those circumstances, award of Rs.15,000/- towards pain, shock and suffering resulting from the fractures of ribs and Rs.40,000/- towards pain, shock and suffering resulting from the crush injury and consequent amputation appear to be reasonable and justified.

4. Therefore, there being no reason to interfere with the impugned award, this appeal is dismissed with no order as to costs.

(D.H.Waghela, J.)

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